

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,                     :  
  v.                     : Case No. 3:08-cr-14-KRG-KAP  
GEORGE D. ALSTON,                            : (Case No. 3:13-cv-138-KRG-KAP)  
  Movant                     :

Memorandum Order

The movant's motion to vacate, docket no. 81, was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(3), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on August 2, 2013, docket no. 82, recommending that the motion to vacate be summarily dismissed as untimely and that a certificate of appealability be denied.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. Movant filed timely objections, docket no. 83., that are meritless. See United States v. Galindez, \_\_\_\_ Fed.Appx. \_\_\_\_, \_\_\_\_ 2014 WL 594329, \*1 n.2 (3d Cir. February 18, 2014) (noting that Alleyne v. United States, 133 S.Ct. 2151 (2013), has not been made retroactively applicable by the Supreme Court).

After de novo review of the record of this matter, together with the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this 13<sup>th</sup> day of March, 2013, it is

ORDERED that the motion to vacate, docket no. 81, is denied. No certificate of appealability is issued. The Report and Recommendation at docket no. 82 is adopted as the opinion of the Court. The Clerk shall mark the civil matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,  
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

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